

## **Zoning Commission Minutes**

**February 27, 2014  
3:00 pm**

Chairman Russ Hoff called the meeting of the Stark County Zoning Commission to order. Chairman Hoff, Gene Jackson, Duane Grundhauser, Jay Elkin, Kurt Froelich and Larry Messer were present and absent were Sue Larsen, and Klayton Oltmanns. Also present were County Planner Steve Josephson, States Attorney Tom Henning, and Nicole Roberts of the Auditor's Office.

Jay Elkin moved to approve the minutes from the January 30, 2014 meeting. Larry Messer seconded. All voted Aye and motion carried.

Tricon Industrial Development is requesting a Final Plat of the TR I Subdivision located in the NW4 of Section 11, Township 139, Range 97 containing approximately 161 acres.

Jay Elkin moved to recommend to the Stark County Board of Commissioners to table the Final Plat of the TR I Subdivision. Duane Grundhauser seconded. Roll call vote. All voted Aye and motion carried.

Chairman Hoff opened the public hearing on a request from Nichole and Errol Zafke. The request is for a zoning change from Agricultural to Rural Residential on a parcel located on the NW4 of Section 15, Township 138, Range 95 containing approximately five (5) acres. Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Jay Elkin moved to recommend to the Stark County Board of Commissioners the approval of the zoning change following staff recommendations for Nichole and Errol Zafke. Larry Messer seconded. Roll call vote. All voted Aye and motion carried.

**STAFF RECOMMENDATION: Approval of the proposed rezoning based upon the following finding:**

- **The proposed rezoning is consistent with the development pattern in the vicinity.**

**The request is consistent with the following objectives of the Stark County Comprehensive Plan:**

- **LAND USE-Strive to protect the agricultural integrity of rural areas; and**
- **LAND USE-Avoid conflicts between land uses.**

Chairman Hoff opened the public hearing on a request from Sunflower Wind Project, LLC. The request is for a Conditional Use Permit for Wind Energy Facilities on parcels located in Sections 24, 25, 26 and 35 and 36 of Township 139, Range 91, and in Section 1, Township 138, Range 91 on approximately 3,200 acres. Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Gene Jackson moved to recommend to the Stark County Board of Commissioners the approval of the Conditional Use Permit following staff recommendations with amendment to condition G for Sunflower Wind Project, LLC. Duane Grundhauser seconded. Roll call vote. All voted Aye and motion carried.

**STAFF RECOMMENDATION: Approval of the proposed conditional use based upon the following findings:**

1. The location of the proposed project should not adversely impact the existing agricultural uses in the vicinity; and
2. The conditional use shall be limited through the inclusion of the following conditions:
  - a. **Development shall be limited to a maximum of 25 wind turbines as well as any required infrastructure.**
  - b. **Development shall be in accordance with the application material dated January 17, 2014 as well as with the additional material dated February 13, 2014 and February 14, 2014.**
  - c. **The location of the wind turbines shall be as generally shown on the drawings dated February 13, 2014.**
  - d. **Development of wind energy facilities shall be performed in accordance with Chapter 6.19 of the Stark County Zoning Ordinance as adopted on October 2, 2012 as well as with all applicable County, State and Federal rules and regulations.**
  - e. **The developer shall be responsible for all maintenance associated with the turbines and private roads accessing the turbines during the operation of the project.**
  - f. **The developer shall enter into a road maintenance agreement with the Stark County Road Department to ensure that all County roads shall be repaired or restored to a condition at least equal to the road condition prior to construction of the project.**
  - g. **Prior to the beginning of ~~operations~~ project's development, the applicant shall contact the County Road Superintendent and request an inspection of the haul routes.**
  - h. **The applicant shall contact the County Road Superintendent no later than November 1 of each year to request a subsequent inspection of the haul routes.**
  - i. **The applicant shall be responsible for dust control along the haul routes.**
  - j. **The developer shall work in concert with law enforcement and emergency responders to facilitate public safety. This includes the provision of additional special rescue equipment and training necessary to accommodate high-angle rescues for law enforcement and emergency responders.**
  - k. **Prior to building permit issuance, the developer shall submit evidence of permit approval for the project by the State of North Dakota Public Service Commission.**
  - l. **Prior to building permit issuance, the developer shall submit to the County determinations of no hazard issued by the Federal Aviation Administration (FAA) based upon the final turbine array.**
  - m. **The applicant shall report to the Zoning Administrator should the termination or abandonment of leases or easements for the wind energy facilities occur. Reclamation of the sites shall be completed within 180 days of termination or abandonment of leases or easements.**
  - n. **The applicant shall post a bond in an amount to be determined by the County Commission.**
  - o. **Any proposed change of the conditional use permit, including location of the facility, shall require a hearing before the Stark County Planning and Zoning Board and approval from the Stark County Commission.**
  - p. **The permit may be revoked by the County Commission anytime the applicant is in non-compliance with any of the conditions set by the Planning and Zoning Board or the County Commission for the issuance of the permit.**

Chairman Hoff opened the public hearing on a request from Northern Improvement Company. The request is for a Temporary Use Permit for an asphalt batching plant site with associated material stockpiles, vehicles, and other allied equipment on a parcel located in the NW4 of Section 36, Township 140, Range 98 containing approximately 157.49 acres. Chairman Hoff asked for anyone to speak for or against the zoning change. Gary Ramsey representative for Dorothy Tuhy, and Shawn Landis spoke against the Temporary Use Permit due to dust, noise, lights, traffic and the loss of value to their property. Chairman Hoff closed the public hearing.

Gene Jackson moved to recommend to the Stark County Board of Commissioners the approval of the Conditional Use Permit for Northern Improvement Company subject to conditions. Larry Messer seconded. Roll call vote. All voted Aye except Jay Elkin voted Naye. Motion carried.

- a. The temporary use permit shall be limited to a portable hot mix asphalt mixing plant with ancillary equipment parking and storage. No other activities shall occur on the site.**
- b. The duration of the temporary use permit shall be April 1, 2014 through November 30, 2014.**
- c. Hours of operation shall be limited to 7:00 a.m. through 6:00 p.m.**
- d. Operations associated with the temporary use permit shall be restricted to the areas shown on the map submitted with the application dated January 22, 2014.**
- e. No permanent structures shall be erected on the site. Temporary structures shall be limited to a maintenance facility, an office facility associated with the asphalt plant, and a fuel dispensing facility.**
- f. All uses associated with the temporary use permit shall be located a minimum of 300 feet from adjacent properties. A six-foot opaque barrier consisting of either a solid wood or vinyl; a landscaping screen, using evergreen or deciduous materials, capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of six feet within three years of planting; a landscaped earth berm with a maximum slope of three to one, rising no less than six feet above the existing grade of the lot line separating the zoning districts; or a combination of these methods that achieves a cumulative height of six feet shall be utilized to screen the temporary use permit operations from adjacent properties.**
- g. No temporary structures, vehicles or equipment shall be stored on the site before April 1, 2014 and after November 30, 2014.**
- h. Prior to commencing the temporary use operations, the developer shall arrange for the County Weed Officer to inspect the property for all new and invasive and noxious weeds. If required by the County Weed Officer, the developer shall be responsible for implementing a Weed Control Plan as approved by the County Weed Control Office. The developer shall provide a copy of the Weed Officer's report and required weed control plan to the Stark County Zoning Administrator.**
- i. Access points serving the subject property shall be determined in accordance with Stark County regulations.**
- j. Prior to commencement of the temporary use operations, the Stark County Road Superintendent shall approve a dust and erosion control plan submitted by the developer.**
- k. The temporary use permit for the for the portable hot mix asphalt plant may be extended by the Stark County Commission upon written application of the owner of the property or authorized representative provided that the extension is for the same use as specified in the original permit and that the applicant is in compliance with the terms and conditions specified in the original permit.**
- l. The developer shall be responsible for all maintenance associated with the temporary use permit, including, but not limited to, County roads used as part of the operations haul route.**

- m. Prior to the beginning of operations, the applicant shall contact the County Road Superintendent and request an inspection of the temporary use haul route.**
- n. The applicant shall contact the County Road Superintendent no later than November 1 to request a subsequent inspection of the temporary use haul route.**
- o. The applicant shall be responsible for dust control along the haul route.**
- p. The applicant shall be responsible for implementing a Weed Control Plan as prescribed by the Weed Control Officer for all new and invasive and noxious weeds as prescribed by the North Dakota Century Code. The applicant shall provide a copy of the Weed Officer's report and required weed control plan to the Stark County Zoning Administrator.**
- q. The applicant shall report to the Zoning Administrator if the asphalt operation is no longer in use. Reclamation of the site shall be completed within one year of the closure of the operation of the site. All top soil shall be replaced and planted with natural protected vegetation.**
- r. The applicant shall post a bond in an amount to be determined by the County Commission.**
- s. Any proposed change of the temporary use permit, including location of the facility, shall require a hearing before the Stark County Planning and Zoning Board and approval from the Stark County Commission.**
- t. The permit may be revoked by the County Commission anytime the applicant is in non-compliance with any of the conditions set by the Planning and Zoning Board or the County Commission for the issuance of the permit.**
- u. Development and operation of the gravel pit shall be performed in accordance with all applicable County, State and Federal rules and regulations.**

Gary Kostelecky of the Rural Fire Department reminded the board that they are still looking to acquire land for a new fire station.

Steve Josephson, County Planner, postponed proposed Zoning Ordinance amendments until the March 27<sup>th</sup> 2014 meeting.

Jay Elkin moved to adjourn. Duane Grundhauser seconded.